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Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Washington, D.C. 20554

**CGB**

January 30, 2017

John Greenewald  
The Black Vault



john@greenewald.com

FOIA No. 2017-243

Dear Mr. Greenewald:

This letter responds to your recent Freedom of Information Act (FOIA) request received by the Federal Communications Commission (FCC or Commission) and assigned to the Consumer & Governmental Affairs (CGB) and Enforcement Bureaus (EB). Your request seeks complaints regarding ABC's "Dick Clark's New Year's Rockin' Eve." Your request has been assigned FOIA Control No. 2017-243.

CGB conducted a search of the databases in which we maintain the records of informal complaints filed by, or on behalf of, consumers. Our search identified two (2) responsive documents. Enforcement did not identify any additional records. Copies of the responsive documents are enclosed.

Records responsive to your request were withheld or redacted under FOIA Exemption 6. Exemption 6 protects files containing personally identifiable information disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Balancing the public's right to disclosure against the individual's right to privacy, we have determined that release of this information would constitute a clearly unwarranted invasion of personal privacy. Therefore, all FCC employee names, complainants' names, addresses, and telephone numbers were redacted under Exemption 6.<sup>1</sup> The FCC receives many complaints and comments that do not involve violations of the Communications Act or any FCC rule or order. Thus, a complaint or comment does not necessarily indicate any wrongdoing by any individuals or entities named in the complaint or comment.

FOIA and FCC rules require the FCC to charge requesters for time spent searching for and reviewing responsive documents, and for copying them. Pursuant to section 0.466(a)(5)-(7) of the Commission's rules, you have been classified for fee purposes as

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<sup>1</sup> 5 U.S.C. § 552 (b)(6); see also 47 CFR § 0.457(f).

category (2), “educational requesters, non-commercial scientific organizations, or representatives of the news media.”<sup>2</sup> As an “educational requester, non-commercial scientific organization, or representative of the news media,” the FCC assesses charges to recover the cost of reproducing the records requested, excluding the cost of reproducing the first 100 pages. The production in response to your request did not involve more than 100 pages of duplication. Therefore, you will not be charged any fees.

If you consider this to be a denial of your FOIA request, you may seek review by filing an application for review with the Office of General Counsel. An application for review must be received by the Commission within 90 calendar days of the date of this letter.<sup>3</sup> You may file an application for review by mailing the application to Federal Communications Commission, Office of General Counsel, 445 12th St SW, Washington, DC 20554, or you may file your application for review electronically by e-mailing it to. Please caption the envelope (or subject line, if via e-mail) and the application itself as “Review of Freedom of Information Action” and the application should refer to FOIA No. 2017-243.

If you would like to discuss this response before filing an application for review to attempt to resolve your dispute without going through the appeals process, you may contact the Commission’s FOIA Public Liaison for assistance at:

FOIA Public Liaison  
Federal Communications Commission, Office of the Managing Director,  
Performance Evaluation and Records Management  
445 12th St SW, Washington, DC 20554  
202-418-0440  
FOIA-Public-Liaison@fcc.gov

If you are unable to resolve your FOIA dispute through the Commission’s FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s Office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS

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<sup>2</sup> 47 CFR § 0.466(a)(5)-(7).

<sup>3</sup> 47 CFR §§ 0.461(j), 1.115; 47 CFR § 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission).

College Park, MD 20740-6001  
202-741-5770  
877-684-6448  
ogis@nara.gov  
ogis.archives.gov

Sincerely,



Nancy Stevenson  
Deputy Chief  
Consumer Policy Division  
Consumer & Governmental Affairs Bureau

Attachments

# #1375125 Dick Clark's Rockin'NYE

**Submitted** January 1, 2017, 2:33 PM **Received via** Web Form **Requester** (b) (6)

**Status** Solved **Type** - **Priority** - **Group** CGB - Indecency your unsolved tickets **Assignee** (b) (6)

**Complaint Internal Status** Not Served **Name of TV program** Dick Clark's Rockin'NYE **TV Method** Cable **TV Issues** Indecency **First Name** (b) (6)

**Last Name** (b) (6) **State** Michigan **Zip Code** 49621 **Time of Issue** 1:15 am **Date of Issue** January 1, 2017

**Phone (where you can be contacted)** (b) (6) **TV channel** 12 **City Where Program was Viewed/Heard** Bay Port

**Network** ABC **State Where Program was Viewed/Heard** Michigan **Address 1** (b) (6) **City** Cedar

**Filing on Behalf of Someone** No

(b) (6) Jan 1, 2:33 PM

On this ABC broadcast there was a blond woman dressed in white doing a rap song shouting out several times "Motherfucker.". I thought no matter what time of day that language was prohibited. This was not muted.

(b) (6) Jan 6, 11:42 AM

(b) (6)

Thank you for contacting the FCC to share your concerns about broadcast program material that you find offensive. The FCC licenses over-the-air radio and TV broadcast stations. It is against federal law for a licensed television or radio station to air obscene programming at any time, or to air indecent or profane material during the hours of 6 a.m. to 10 p.m. The FCC is charged with enforcing the law that governs the broadcast of such material.

The FCC is not permitted to censor or restrict the availability of non-broadcast programming shown over cable and satellite systems. Cable and Satellite Operators do not have the same restrictions on program content as regular television broadcast stations.

For the FCC to consider whether a licensee has violated these requirements of the law, a complaint must relate to particular programming, rather than express a general opinion. To proceed on a complaint, the FCC must have information that includes the station that aired the programming material, the date and time of day of the broadcast, a recording, transcript or description of the material broadcasted. Not all programming which consumers find inappropriate or offensive matches the FCC definitions of indecency, obscenity, and profanity.

Licensed Broadcasters are responsible for selecting the broadcast material that airs on their stations, including advertisements. The FCC expects broadcasters to be responsible to the community they serve and act with reasonable care to ensure that advertisements aired on their stations are not false or misleading.

If your complaint is regarding non-broadcast programming shown over a cable or satellite system, or concerning broadcasts from a FCC licensed TV or radio station, and you have not provided the necessary information, or the facts and information contained in the complaint did not suggest that a violation of the statute or FCC rules regarding indecency, obscenity, and profane material has occurred, we cannot proceed further with regard to your allegations. Accordingly, we must close your complaint.

Your views and concerns about program material are important to us. To assist you further, we are including

links to information that discusses the law with respect to indecent, profane and obscene broadcasts and our enforcement procedures.

We encourage you to convey your concerns, whether general or program-specific, directly to station management. This can be an effective method to influence a broadcast licensee's programming decisions.

<https://www.fcc.gov/consumers/guides/obscene-indecent-and-profane-broadcasts>

<https://consumercomplaints.fcc.gov/hc/en-us/articles/203700670-Cable-TV-and-Offensive-Programming-Quick-Facts>

<https://consumercomplaints.fcc.gov/hc/en-us/articles/203700610-Satellite-Programming-Quick-Facts>

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Support Software by **Zendesk**

## #1374895 Incorrectly captioned program

**Submitted** **Received via** **Requester**

January 1, 2017, 1:12 AM

Web Form

(b) (6)

**Status** **Type** **Priority** **Group** **Assignee**

Solved

-

-

DRO - Main Form

(b) (6)

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Complaint Internal Status		Name of TV program		TV Method	Accessibility Issues	
Carrier Status	Closed	Dick Clark's new years rocking eve		Fiber	Closed Captioning on TV	
<b>First Name</b>	<b>Last Name</b>	<b>State</b>	<b>Zip Code</b>	<b>Time of Issue</b>	<b>Date of Issue</b>	
(b) (6)	(b) (6)	Pennsylvania	15017	11:38 pm	December 31, 2016	
<b>TV channel</b>	<b>City Where Program was Viewed/Heard</b>			<b>Preferred Method of Response</b>	<b>Network</b>	
504	Bridgeville			Email	ABC	
<b>Call Sign</b>	<b>State Where Program was Viewed/Heard</b>			<b>Address 1</b>	<b>City</b>	
WTAE	Pennsylvania			(b) (6)	Bridgeville	
<b>Filing on Behalf of Someone</b>						
No						

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(b) (6) Jan 1, 1:12 AM

During mariah carey's live lip syncing snafu on ABC, the captions didn't quite accurately reflect what she way saying over the background track. Some sentences, especially at the beginning, we're out of order or quickly overrun by the captions of what the song was supposed to be (which she didnt sing)

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(b) (6) Jan 9, 1:37 PM

(b) (6)

Your Ticket No. 1374895 was reviewed by the Disability Rights Office and determined that no further action is required. This seems to have been a one time problem with both captions and lip-synching due to human error. It is not a rules violation by the network.

Your complaint is closed as of today. However, you will have 30 days in which to notify us if you believe the matter has not been resolved satisfactorily.

Thank you for your complaint and help in furthering the FCC's mission on behalf of consumers.

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Support Software by **Zendesk**